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3 **FACSIMILE #703-872-9306, FOR EXAMINER**
4 **DANIEL G. DEPUMPO, TELEPHONE 703 308 1113,**
5 **ART UNIT 3611**

6 Response 29 pages,
7 Drawings 2 sheets
8 Terminal Disclaimer sheet.
9 Total Fax pages 31

Our Ref. No. P-1549-021

10 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

11 In Re Application of:
12 CLARK

Date: March 3, 2005

13 Serial No. 10/647,030

Group Art Unit: 3611

14 Filed: November 24, 2003

Examiner: Daniel G. DePumpo

15 For: A YAW, PITCH AND ROLL
16 APPARATUS FOR A MULTIPLE UNIT
17 VEHICLE

18 **AMENDMENT AND RESPONSE**

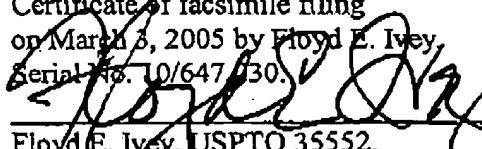
19 Hon. Commissioner of Patents and Trademarks
20 Washington, D.C. 20231

21 Dear Commissioner:

22 In response to the communication from the Examiner dated December 3, 2004,
23 please consider the following:

24 **Response Is Timely**

25 The applicant respectfully observes that this response is timely following the
26 Examiner's Communication of December 3, 2004. However, the Examiner is hereby
27 authorized to deduct other fees owing from the deposit account of Liebler, Ivey &
28 Connor, P.S./Floyd E. Ivey, 35,552, Deposit account No. 50-0607.

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31 Serial No. 10/647,030.
32 
33 Floyd E. Ivey, USPTO 35552,

Application No. 10/647,030

1 I. INTRODUCTORY COMMENTS

2 Response to Office Action of December 3, 2004

3 As history, you applicant comments on the Examiner action of September 2, 2004,
4 which found Figure 6 to show modified forms of construction in the same view being not
5 compliant with 37 CFR 1.84(h)(5). The applicant's response of October 4, 2004,
6 provided a revised Figure 6.

7
8 The Examiner's prior action of September 2, 2004 also required election and
9 identified patentably distinct species as follows:

- 10 2. species of the yaw assembly per I Fig. 5 or II Fig. 6;
11 3. species of the yaw interconnection means A nut and bolt (500) or B motor
12 means (400);
13 4. species of the motor means i electric, ii pneumatic, iii hydraulic;
14 5. species of the drive means a shaft (410), key (420), and notch (425) or b shaft
15 (410) and gear (430).

16 Applicant, by Election and Response of October 4, 2004 elected with traverse.

17
18 The Examiner's Action of December 4, 2004 acknowledges the October 4, 2004
19 election with traverse of Species I (yaw assembly, Fig. 5), species iii (hydraulic motor),
20 and species a (drive means of shaft/key/notch).

21 At page 2 of the Examiner's Action, the Examiner notes that there are no claims
22 common to all the elected species. Amendments are hereafter provided.

23 At page 2 of the Action, the Examiner notes that some of the species requirements
24 have been withdrawn in view of the applicant's remarks with the withdrawn indicated as
25 follows:

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- 1 2. species of the yaw assembly per I Fig. 5 or II Fig. 6;
- 2 3. species of the yaw interconnection means A nut and bolt (500) or B motor
- 3 means (400);
- 4 4. species of the motor means i electric, ii pneumatic, iii hydraulic;
- 5 5. species of the drive means a shaft (410), key (420), and notch (425) or b shaft
- 6 (410) and gear (430).

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8 Your applicant now responds to the Examiner's Action of December 3, 2005.

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1 **I. ADMISSION OF OBVIOUS VARIANTS**

2 A. At page 2 the Examiner states that the traversal directed to the Yaw Assembly,
3 on the grounds that the sole distinction between the species of fig. 5 and fig. 6, is that the
4 species of fig 5 includes a single set of yaw assembly plates and the species of fig. 6
5 includes two sets of plates, is not found persuasive because applicant has not provided a
6 clear admission that these species are obvious variants of each other.

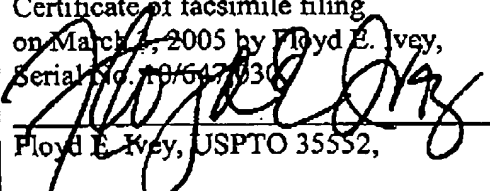
7 Your applicant now makes the clear admission that the species of fig 5 and fig 6,
8 pertaining to a single set of yaw assembly plates of fig. 5 and two sets of plates of fig. 6
9 are obvious variants of each other.

10 Your applicant respectfully requests the Examiner to withdraw any objection or
11 rejection based on this consideration and to withdraw the requirement of election and
12 allow further prosecution of the application on the merits.

13
14 B. At page 2 the Examiner states that it is noted that the species of fig. 6 includes
15 gear means 430 with this feature not present in the elected species of fig. 5. A review
16 indicates that the distinction, re: this feature, is whether the motor and shaft are notch
17 interrelated to exert torque and rotate the plates or whether the motor and shaft are gear
18 interrelated to exert torque and rotate the plates.

19 Your applicant asserts and now makes the clear admission that the species of fig 5
20 and fig 6, pertaining to a notch or a gear interrelationship are obvious variants of each
21 other and will be obvious design considerations.

22 Your applicant respectfully requests the Examiner to withdraw any objection or
23 rejection based on this consideration and to withdraw the requirement of election and
24 allow further prosecution of the application on the merits.

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1 C. At page 2 the Examiner states that the applicant has indicated that only claims
2 1-4 read on the species of fig. 5 and that the Examiner considers that claims 1-6 actually
3 read on the elected species of fig. 5.

4 Your applicant asserts that the reference to claims 1-4 was a scrivener's error and
5 that it was meant to state claims 1-6.

6 Your applicant respectfully requests the Examiner to withdraw any objection or
7 rejection based on this consideration and to withdraw the requirement of election and
8 allow further prosecution of the application on the merits.

9
10 D. At page 2 the Examiner states that "clearly, claims 7-10 do not read on the
11 elected species because claim 7 recites a "top assembly plate" (i.e. 211), which is a
12 feature of non-elected fig. 6. Claims 7-10 are withdrawn from further consideration
13 pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no
14 allowable generic or linking claim.

15 Your applicant has, in paragraph A above, made "the clear admission that the
16 species of fig 5 and fig 6, pertaining to a single set of yaw assembly plates of fig. 5 and
17 two sets of plates of fig. 6 are obvious variants of each other."

18 Your applicant respectfully asserts that this matter was addressed in your
19 applicant's Response and Election of October 4, 2004. The matter of one or of two yaw
20 assembly plates will be considered by those of ordinary skill in the mechanical arts as
21 "obvious variants" in the interconnection of such devices. Your applicant respectfully
22 asserts that this should not have been an election consideration. The imposition of this
23 election, re: a single set versus two sets of plates, as FINAL, will impose on the inventor
24 undue and unnecessary duplicating fees and petitioning.

25 Your applicant respectfully requests the Examiner to withdraw any objection or

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1 rejection based on this consideration and to withdraw the requirement of election, to find
2 that the species of fig. 6 comprises an obvious variant of fig. 5 and to allow claims 7-10,
3 re: a "top assembly plate", to be reinstated, to be given further consideration and to
4 withdraw the required election between fig. 5 and fig. 6. Your applicant respectfully
5 requests that the Examiner allow prosecution of the application on the merits.

6
7 E. At page 3 the Examiner states, re: drive means, that the statement that the
8 various drive means are "design considerations" is an apparent admission that the various
9 drive means are obvious design considerations, however that this is unclear in that the
10 applicant did not use the word "obvious".

11 Your applicant respectfully contends that such are obvious variants and that the
12 indicated lack of clarity by the omission of the word "obvious" places the applicant in the
13 difficult position of "clarifying" what is already clear to those of ordinary skills in the
14 mechanical arts.

15 Your applicant has, in paragraph B above, stated that the species of fig 5 and fig 6,
16 pertaining to a notch or a gear interrelationship are obvious variants of each other and will
17 be obvious design considerations.

18 Your applicant respectfully asserts that this matter was addressed adequately in
19 your applicant's Response and Election of October 4, 2004. Your applicant respectfully
20 asserts that this should not have been an election consideration. The imposition of this
21 election, re: a notch or gear, as FINAL, will impose on the inventor undue and
22 unnecessary duplicating fees and petitioning.

23 Your applicant respectfully requests the Examiner to withdraw any objection or
24 rejection based on this consideration and to withdraw the requirement of election, to find
25 that the species of fig. 6 comprises an obvious variant of fig. 5 and to allow claims 7-10,
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1 re: the several issues including the matter of notch v. gear, to be reinstated, to be given
2 further consideration and to withdraw the required election between fig. 5 and fig. 6.
3 Your applicant respectfully requests that the Examiner allow prosecution of the
4 application on the merits.
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